

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

Case No. 2:04-cv-00747-PMP-GWF

ORDER AND FINDINGS & RECOMMENDATIONS

This matter is before the Court on Defendants' Motion to Compel Depositions of Teri Arenas, Peter Kilkenny and Roger Miller, or in the Alternative, Motion to Dismiss Teri Arenas', Peter Kilkenny's and Roger Miller's Claims with Prejudice (#149), filed on November 7, 2006; Plaintiffs' Opposition to Defendants' Motion to Compel Depositions of Teri Arenas, Peter Kilkenny and Roger Miller, or in the Alternative, Motion to Dismiss Teri Arenas', Peter Kilkenny's and Roger Miller's Claims with Prejudice (#159), filed on December 12, 2006; and Defendants' Reply in Support of Motion to Compel Depositions of Teri Arenas, Peter Kilkenny and Roger Miller, or in the Alternative, Motion to Dismiss Teri Arenas', Peter Kilkenny's and Roger Miller's Claims with Prejudice (#160), filed on December 18, 2006. The Court heard this matter on December 21, 2006. For good cause shown,

IT IS HEREBY ORDERED that Plaintiffs Teri Arenas, Peter Kilkenny and Roger Miller shall appear for their depositions on January 11, 2007.

1 **IT IS FURTHER RECOMMENDED** that if Plaintiffs Teri Arenas, Peter Kilkenny and Roger
2 Miller fail to appear for their deposition without good cause, that they be dismissed, with prejudice, as a
3 plaintiff in this action and that the Court may impose monetary sanctions for their failure to appear.

NOTICE

Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be in writing and filed with the Clerk of the Court within ten (10) days. The Supreme Court has held that the courts of appeal may determine that an appeal has been waived due to the failure to file objections within the specified time. *Thomas v. Arn*, 474 U.S 140, 142 (1985). This circuit has also held that (1) failure to file objections within the specified time and (2) failure to properly address and brief the objectionable issues waives the right to appeal the District Court's order and/or appeal factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

DATED this 21st day of December, 2006.

George Foley Jr.
GEORGE FOLEY, JR.
U.S. MAGISTRATE JUDGE